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TOBACCO CONTROL OFFICE

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1 June 2018

Clerk, Public Accounts Committee  
(Attn: Mr Anthony CHU)  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr CHU,

**Public Accounts Committee**

**Consideration of Chapter 5 of the Director of Audit's Report No. 70  
Department of Health's efforts in smoking control**

Your letter dated 21 May 2018 on the captioned subject refers.

2. The replies from the Department of Health are at **Annex** for the consideration of the Public Accounts Committee, please.

Yours sincerely,

( Dr PM LEE )  
for Director of Health

Encl

c.c. Secretary for Food and Health (fax no. 2526 3753)  
Director of Audit (fax no. 2583 9063)

*We build a healthy Hong Kong and  
aspire to be an internationally renowned public health authority*

Part 2 : Enforcement Work of The Tobacco Control Office

- 2) It was pointed out in paragraph 2.9(c) that the Tobacco Control Office ("TCO") was developing the "Tobacco Control Office Information System" ("TCOIS") which would be launched in the second quarter of 2018 to replace the Master Case Log. Please provide details of TCOIS-related expenditures. As the information mentioned in paragraph 2.7(a) to (d) of the Audit Report had not been recorded in the Master Case Log, please advise whether all the aforesaid problems can be fixed after TCOIS has been launched; if not, of the reasons and justifications for developing TCOIS?

DH's response:

- 2) The Tobacco Control Office (TCO) procured the system development services of the Tobacco Control Office Information System (the System) through open tender and the price of contract awarded is about \$3.04 million. The System will record the case information mentioned in paragraphs 2.7(a)-(d) in the Audit Report including the interim reply dates, the inspection dates, the inspection results and the final reply dates. The System would facilitate the timely input of enforcement data and help ensuring the completeness of information relating to complaints handling. TCO would also make use of the System to monitor the performance in complaints handling.
- 3) As listed in paragraphs 2.18 and 2.23, the number of inspections varied considerably among complaints, and as shown in Table 8, the percentage of inspections conducted by Tobacco Control Inspectors ("TCI") during overnight sessions was much lower than those of other time sessions, please advise:
- (a) the basis on which TCO formulates the number of inspections to be conducted at different time sessions;
- (b) the staff establishment for conducting overnight inspections and whether the 21 enforcement teams of TCO will take turns to conduct overnight inspections;

- (c) whether the number of inspections currently conducted during overnight sessions has increased; if so, the number of increased inspections; if not, the reasons for that; and
- (d) the progress, results and effectiveness of the initiative stated in paragraph 2.34(d), i.e. DH would enrich the guidelines to facilitate TCIs to determine the frequency of inspections and would closely monitor the patterns of complaints received and smoking offences found at different time sessions; if the initiative has not yet been carried out, of the implementation timetable?

DH's response:

- 3a)** TCO would follow up each case and arrange inspection to the venue having regard to the information about the time of witnessing smoking offence of the complaint received. If smoking offence is found during inspection, Tobacco Control Inspectors (TCIs) would, without prior warning, issue Fixed Penalty Notices to offenders. TCIs may also conduct more inspections to the same venue if needed after taking the following factors into consideration :
  - (i) the need for conducting inspections to familiarise with a venue newly inspected;
  - (ii) whether there was evidence of smoking (e.g. cigarette butts and smell);
  - (iii) whether there was history of relatively serious smoking problems;
  - (iv) whether additional information had been provided by the complainant;
  - (v) whether there were multiple time periods of offences reported;
  - (vi) the nature of the venue;
  - (vii) public concern;
  - (viii) characteristics of smoking offenders; and
  - (ix) any other reasons that the enforcement team considered that more frequent inspections for stronger deterrent effect was needed.
- 3b)** At present, the staff establishment of full time civil service TCIs is 89. In general, each overnight inspection is led by a Senior TCI, with team members of TCIs / Assistant TCIs. Each district enforcement team would conduct overnight inspections.

- 3c)** As mentioned in paragraph (a) above, TCO will arrange inspection with reference to the case details and information such as the time of witnessing smoking offence provided by the complainant as far as practicable. There is an enormous number of statutory no smoking areas over the territory involving all indoor public places and workplaces, as well as some outdoor areas such as public pleasure grounds, stadiums and schools. Most of these venues are closed or cease operation during the overnight hours. Therefore, inspections are conducted mainly during daytime and nighttime. To address the increasing demand for enforcement duties, in 2017, the TCO has redeployed and injected resources including setting up a task force with retired policemen to strengthen enforcement action against smoking offences in venues with serious smoking problems, especially at the night time and public holidays. As a result, the number of night operations<sup>1</sup> has increased from 442 in 2016 to 542 in 2017.
- 3d)** As mentioned in paragraph (a) above, there are several factors affecting the time and frequency of inspection. TCO targets to enrich the guidelines to facilitate TCIs to determine the frequency of inspections by Q3 2018. Also, TCO will closely monitor the patterns of complaints received and smoking offences found at different time sessions to guide the effective deployment of the enforcement manpower in future.
- 4)** As heat-not-burn cigarettes or electronic cigarettes ("e-cigarettes") are also prohibited in statutory no smoking areas, and there is a rising trend in the number of people smoking e-cigarettes in recent years, whether the number of fixed penalty notices ("FPNs") listed in Table 9 showed such a trend; if not, whether DH has looked into the reasons why law enforcement officers had not issued FPNs to persons smoking e-cigarettes; and among the FPNs issued between 2013 and 2017, the number involved e-cigarettes?

DH's response:

- 4)** The TCO issued 1 Fixed Penalty Notice (FPN) in 2015, 4 FPNs in 2016, and 1 summons and 11 FPNs in 2017 (17 FPNs/summonses in total) to

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<sup>1</sup>"Night operation" includes "afternoon and evening shift", "evening shift" and "overnight shift" covering the periods 1200-2300, 1800-2300, and 2000-0600 respectively.

offenders who smoked electronic cigarettes in no smoking areas. The TCO issued 2 summonses and 22 FPNs to offenders who smoked heat-not-burn tobacco products in no smoking areas in 2017 (24 FPNs/summonses in total).

- 5) It was mentioned in paragraph 2.44(c) that TCO would explore the feasibility of additional payment methods. Please advise the progress and conclusions of the review, as well as the effectiveness of the new measures (if adopted); if this has not been done, of the implementation timetable? Apart from adopting additional payment methods, whether DH has considered introducing other methods to reduce the unsettlement cases of FPNs, in particular by non-local offenders; if so, of the details; if not, the reasons for that?

DH's response:

- 5) At present, FPNs may be settled through automated teller machines, Payment by Phone Service, Internet banking, phone banking, post (payments by cheques, bank drafts or cashier orders) or at Post Office counters. TCO would liaise with the Treasury to explore the feasibility of settling FPNs at convenience stores. Other than this, TCO has reminded TCIs to continue to explain to offenders at the scene, in particular non-local offenders, the methods of settling FPNs.
- 6) Regarding Audit's recommendations as set out in paragraph 2.49 that DH should enhance publicity to the trade on the legal requirement of banning tobacco advertisements and the legal definition of such advertisements, and should take enforcement actions against tobacco advertisements where warranted, please advise the progress and effectiveness of the relevant follow-up work; if the recommendation has not been implemented, of the implementation timetable?

DH's response:

- 6) TCO is drafting a letter to promote understanding of the provisions of the Smoking (Public Health) Ordinance (Cap 371) about the banning of tobacco advertising and would issue to the industry once ready.

Meanwhile, TCO continues to conduct investigations on suspected tobacco advertisement and takes appropriate enforcement actions.

- 7) Although DH had stated that the purpose of supervisory checks was to discover any inconsistencies or irregularities of the enforcement teams, paragraph 2.53 showed that there was scope for improvement in the conduct of surprise checks. Please advise:
- (a) whether Executive Officers ("EOs") will ask the enforcement teams to provide written explanations when failing to locate enforcement teams at the inspection points; if not, of the reasons for that and how EO will follow up on the situation;
  - (b) reasons why no surprise checks had been conducted before 9:30 am and after 7:30 pm, as stated in paragraph 2.53(c); and
  - (c) whether there were cases in which it was concluded that members of enforcement team had not carried out scheduled inspection in the past three years; if so, the number of such cases in each year, and the penalties imposed on the relevant officers?

DH's response :

- 7a) For the 51 supervisory checks mentioned in the Audit Report, the Executive Officers (EOs) were able to locate the enforcement team at the scheduled venue and time on 31 occasions; 16 teams' inspections were found not on schedule due to delay in preceding inspections or other reasons such as traffic condition; and the remaining 4 were due to the large area covered by the venue, hence the EOs were unable to confirm the enforcement teams' work on the spot. Nevertheless, EOs had verified the work through examination of the inspection reports of the teams afterwards and there was no disciplinary nor non-compliance case involved.
- 7b) Each overnight inspection is led by a Senior TCI and accompanied by seconded police officers. Such arrangement assists the monitoring of frontline enforcement teams. Having considered factors such as transportation and security concerns, TCO did not arrange EOs to conduct overnight supervisory checks. We understand that the

supervisory check system is a component of quality assurance to monitor onsite enforcement performance and written guidelines are available to guide the checking process. On the other hand, TCO is considering the use of mobile communication device as a means to enhance the supervisory checks.

- 7c) As mentioned in paragraph (a) above, EOs had verified the work through examination of the inspection reports of the teams after the supervisory checks and there was no disciplinary nor non-compliance case involved.

### Part 3 : Facilitating The Work of Venue Managers

- 8) Regarding Audit's recommendation as set out in paragraph 3.19(a) that DH should identify enclosed public places and outdoor escalators with no display of no-smoking signs and encourage venue managers to display no-smoking signs, please advise the progress, timetable and effectiveness of the relevant follow-up work?

DH's response:

- 8) It is an existing practice of TCIs to provide no-smoking signs and to educate venue managers of statutory no smoking areas to implement smoking ban during their enforcement inspections. TCO will strengthen the practice.
- 9) According to paragraph 3.27(b), TCO would explore with the Food and Environmental Hygiene Department how best the two parties could mount more joint operations in public market venues to curb smoking problems there. Please advise the progress, timetable and effectiveness of the relevant follow-up work?

DH's response:

- 9) In response to the recommendation of the Audit Report, TCO has established regular meetings with the Food and Environmental Hygiene Department (FEHD) to discuss issues related to tobacco control in the venues managed by FEHD and to enhance the collaborative efforts. The first meeting was convened on 26 March 2018. Since then, TCO and



FEHD have been conducting joint enforcement operations in public markets and cooked food centres where smoking problem is more serious.

#### Part 4 : Smoking Cessation Services and Other Management Matters

- 10) According to paragraph 4.11(b), DH would review the way forward of smoking cessation services provided by its clinics to members of the public. Please advise the progress, timetable and effectiveness of the relevant follow-up work?

DH's response:

- 10) The primary care out-patient clinic located in Ngau Tau Kok under DH is a family medicine training centre, which mainly provides out-patient clinic service to patients as well as training of family physicians. The counselling services of the clinic also provide smoking cessation at a fee for those members of the public in need. Since DH has collaborated with NGOs to provide free smoking cessation services in various districts in recent years, the number of referrals to this clinic for smoking cessation service has decreased. Although the number of clients referred to this clinic for smoking cessation service has decreased, DH considers that it is necessary to provide the smokers with this additional option of services. DH agrees with the Audit Report to review the way forward of this clinic's smoking cessation service.

#### Part 5 : Operation of The Hong kong Council on Smoking and Health

- 11) Regarding Audit's recommendations as set out in paragraph 5.20 that Director of Health should consider requiring COSH to publish details of the review reports concerning remunerations of the staff at the top three tiers of COSH, please advise the latest progress in this regard; if it was decided that details of the review reports would be published, of the timetable; if not, of the reasons for that?

DH's response:

- 11) COSH agreed with the audit recommendation concerned. Details of the



review report will be published upon the completion of next remuneration review of its staff at the top three tiers in 2019.